

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

NO. 06-4094

---

BROOKE A. KEEFER,  
Appellant

vs.

SOMERSET D.A. OFFICE; SOMERSET DETECTIVE JASON HUNTER; SOMERSET  
CHILD SERVICES; DOMESTIC RELATIONS DEPARTMENT; SOMERSET  
PROBATION; WILBURT BEACHY; SOMERSET BOROUGH POLICE; COURTS;  
SOMERSET SOCIAL SECURITY ADMINISTRATION.

---

On Appeal From the United States District Court  
For the Western District of Pennsylvania  
(D.C. Civ. No. 06-cv-00166J)  
District Judge: Honorable Arthur J. Schwab

---

Submitted For Possible Summary Action  
Under Third Circuit L.A.R. 27.4 and I.O.P. 10.6  
May 10, 2007

BEFORE: McKEE, FUENTES and WEIS, CIRCUIT JUDGES  
(Filed June 4, 2007)

---

OPINION

---

PER CURIAM.

Brooke Keefer, proceeding pro se, appeals from the District Court's

dismissal of his complaint as frivolous pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A. We have jurisdiction pursuant to 28 U.S.C. § 1291. The District Court correctly ruled that Keefer's complaint does not state a claim in its current version. However, the complaint was erroneously dismissed with prejudice and we conclude that Keefer should have the opportunity to amend. Accordingly, pursuant to L.A.R. 27.4 and I.O.P. 10.6, we will summarily vacate the District Court's memorandum order entered August 22, 2006, and remand for further proceedings.

On July 24, 2006, Keefer filed a document with the District Court which explains that he would like to commence a "discrimination/entrapment suit" but that he does not understand how to fill out the forms sent to him by the District Court. The document then alleges that throughout the past 28 years several Somerset Borough officials and departments, among others, discriminated against and entrapped Keefer and his family. The allegations, which are set forth in nine numbered paragraphs, are vague and conclusory at best.

Keefer sought to proceed in forma pauperis, and the District Court granted his motion, but simultaneously dismissed his complaint as frivolous pursuant to 28 U.S.C. § 1915(e)(2). The Court said that "[w]hile the allegations may be 'real' to plaintiff, a reasonable person would find them fanciful and wholly without any factual basis. No amount of repleading could save them from being frivolous."

In our view, the complaint is not detailed enough to permit a court to

appraise the allegations' viability. Accordingly, rather than dismissing the complaint with prejudice, we believe that it should have been without prejudice, thus allowing-Keefe the opportunity to amend his complaint. See Alston v. Parker, 363 F.3d 229, 235-36 (3d cir. 2004); Fletcher-Harlee Corp. v. Pote Concrete Contractors, Inc., 482 F.3d 247, 252 (3d Cir. 2007) ("leave to amend must be granted sua sponte before dismissing" civil rights complaints).

Accordingly, we will vacate the District Court's August 22, 2006 memorandum order and remand this matter for further proceedings.